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Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable JEFF MERKLEY, a Senator from the State of Oregon.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

O God, whose spirit searches all things, send us Your truth and mercy today. Guide our lawmakers along a path that leads to the hearts and needs of those on life's stormy seas. Give our Senators a grace that will take away fear and provide them with courage and faith. Increase their understanding of the scope of their tasks as servants of Your kingdom, as You inspire them to stay within the circle of Your loving providence. Lord, imbue them with understanding and sympathy, as well as with a sense of justice that they may be champions of liberty and instruments of Your peace. May this be a day in which the Senate exemplifies to America unity, courage, and civility. Today, as we welcome a new lawmaker, we ask Your blessings for the Honorable PAUL KIRK, Jr.

We pray in the Redeemer's Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JEFF MERKLEY led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, September 25, 2009.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JEFF MERKLEY, a Senator from the State of Oregon, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. MERKLEY thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. REID. Mr. President, following leader remarks, the Senate will resume consideration of the appropriations bill for the Department of Defense. There will be no rollcall votes during today's session, but at 3:30 p.m. today, PAUL KIRK will be sworn in as the new Senator from Massachusetts, filling in for the late Senator Kennedy.

As I speak, we have an international war on terrorism, we have American troops stationed in Iraq and Afghanistan, and we have a Defense appropriations bill which is now before the Senate. The appointment of the Chairman of the Joint Chiefs of Staff, ADM Michael Mullen, expires on September 30. It would be absolutely unacceptable to allow his position to be vacant at a time when our Nation is so engaged internationally. I hope we can count on the cooperation of all my colleagues in allowing this nomination to proceed without delay—immediately.

Mr. President, would you announce the business of today.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2010

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of H.R. 3326, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3326) making appropriations for the Department of Defense for the fiscal year ending September 30, 2010, and for other purposes.

The ACTING PRESIDENT pro tempore. The Senator from Hawaii.

Mr. INOUE. Mr. President, I submit pursuant to Senate rules a report, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DISCLOSURE OF CONGRESSIONALLY DIRECTED SPENDING ITEMS

I certify that the information required by rule XLIV of the Standing Rules of the Senate related to congressionally directed spending items has been identified in the committee report which accompanies H.R. 3326 and that the required information has been available on a publicly accessible congressional website at least 48 hours before a vote on the pending bill.

Mr. INOUE. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MCCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

HEALTH CARE

Mr. MCCAIN. Mr. President, for at least several months, Congress, as we

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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know, has been considering comprehensive health reform legislation written and moved through committees without bipartisan support. The Senate Finance Committee, now the last committee, is apparently considering a proposal that was originally believed to possibly garner bipartisan support. However, it has not. At the end of the day, the bill has ended up being divided along partisan lines.

I agree that bipartisanship alone does not propose good legislation, but I can guarantee that partisan legislation pushed through Congress on artificial deadlines will not engender confidence or the support of the American people. Not one of the bills in the House or Senate committees has received a Republican legislator's vote—now they are counting on perhaps one—nor did any of the bills deserve the vote of any Member of Congress. I hope reason will prevail this week.

Unfortunately, as written, the administration's and Senator BAUCUS's proposal does not warrant the support of the American people or Members of Congress. During the August recess we saw millions of Americans come to townhall meetings across this country and express their concerns. While some have dismissed these peaceful revolutionaries and impugned their motives, I believe these citizens should be listened to. This peaceful resolution is like nothing I have ever seen in my nearly 30 years of elected office. Americans have made it abundantly clear they do not want government taking over their health care decisions. But, unfortunately, that is the reality of the proposals before the Senate Finance Committee and those that have already been passed. Senator BAUCUS's proposal is not any different. It increases or creates new government control in all aspects of our health care system, increases health care taxes, and makes cuts to Medicare that reduce benefits and weaken its fiscal health.

The administration's bill being considered this week in the Finance Committee puts Washington in control of health insurance regulations by defining what is "acceptable health insurance coverage" and what Americans must pay for this coverage. Washington also seeks to tell Americans that they have no more than four insurance plan coverage levels available to them, the least costly of which would be more expensive than many individual and small group policies today.

In addition, the proposal decides which health care industry should be taxed and then imposes billions in new taxes on them. There are new taxes on prescription drugs, there are new taxes on medical devices, there are new taxes on laboratory tests, and there are new taxes on insurance companies.

The Congressional Budget Office has confirmed what we know: that these taxes will be passed on to the consumers and will drive up health insur-

ance premiums, directly contradicting the goal all of us shared together. This week CBO Director Douglas Elmendorf in the Senate Finance Committee said:

Our judgment is that that piece of legislation would raise insurance premiums by roughly the amount of the money collected.

If there are some out there who are not concerned by this massive government expansion, here is the kicker. The tax increases start right away even though many coverage provisions do not begin for 4 years, making the real 10-year implementation cost between \$1.5 and \$2 trillion. While it may seem to most Americans that reform is all about regulating health insurers and getting people covered, America's seniors who depend on Medicare would be wrong to assume their benefits will not be affected under the proposal that is being considered in the Senate Finance Committee.

The administration's proposal under consideration in the Finance Committee cuts \$500 billion from Medicare and allocates it to creating a new entitlement that we know taxes and costs too much. Instead of improving Medicare's financial stability, the proposal cuts nearly \$120 billion from hospitals serving Medicare patients, more than \$40 billion from Medicare home health providers, and approximately \$130 billion of the cuts come from Medicare Advantage.

CBO confirmed the obvious—that taking \$130 billion from Medicare Advantage is a cut in the extra benefits provided to seniors despite protestations that this is not a cut from the other side and from President Obama.

From the Associated Press:

Congress' Chief Budget Officer is contradicting President Barack Obama's oft-stated claim that seniors would not see their Medicare benefits cut under a health care overhaul.

Candidate Obama campaigned to make this cut, but now we hear the other side twist themselves in circles trying to obscure the facts. Americans should understand what is in these proposals and make up their own minds. But the other side must not agree. Why else would Democrats vote down an amendment in the Senate Finance Committee that would have simply required the legislative language to be posted online for 72 hours before voting on the proposals? This is what happens when you do not have online or prior information concerning amendments.

The Finance Committee passed a Democratic amendment earlier Wednesday by voice vote that they thought would have no impact on the bill's bottom line. Hours later, the committee staff learned from CBO that Senator DEBBIE STABENOW's amendment on foster care would actually cost \$600 million. This is why we need to have cost estimates and online scrutiny not only by Members of Congress and their staffs but by the American people before we adopt amendments.

Let me read from the press release issued by Senator BAUCUS this week:

At the urging of Senate Finance Committee Chairman Max Baucus, the Centers for Medicare and Medicaid Services [known as CMS] has cracked down on insurance compan[ies] . . . The CMS investigation into the beneficiary letter was prompted by a Baucus request.

This is a press release issued by the office of the Senator from Montana himself. And what did Senator BAUCUS's urging result in? A gag order from the acting head of the CMS Center for Drug and Health Plan Choices. Shockingly, the CMS subgroup ordered health plans offering Medicare Advantage benefits to stop communicating with their members what the CBO tells us is true, that taking \$130 billion from Medicare Advantage is a cut.

Let's be clear. This is government-imposed restrictions on free speech. How is it that we have an agency of government telling a private corporation they are not free to express their opinions or views on anything the Congress does?

So where does this leave us? The proposal expands failing Medicaid, increases government control in the health care of every American, and drives up premiums by raising taxes on health care and health insurance. Then the proposal forces you or your employer to purchase their more expensive insurance. But to hide the impact, we are going to subsidize some Americans for this more expensive coverage, and if they do not purchase this more expensive coverage, the proposal tells the IRS to come after them with new tax penalties.

The recent poll this morning, published in various newspapers, shows there continues to be waning support and a lack of understanding of the President's proposal. I think that is perfectly logical because the President says: If you like your present health insurance, you can keep it. Then CBO determines, and others, if your employer provides you with health care benefits and chooses the government option, then you as the employee do not have the ability to keep your health insurance policy if you like it.

So I think it is pretty clear the strategy of the administration is to try to ram something through the Senate and the House, rewrite it in conference, and certainly without Republican participation. I hope that is not the case.

I look forward to continued discussion of this very vital issue for the American people on the floor of the Senate and in the various forums around the country. I intend to continue to have health care townhall meetings in my State as they have been very helpful both in informing my constituents and my constituents informing me.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MCCONNELL. I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF THE MINORITY LEADER.

The ACTING PRESIDENT pro tempore.

The Republican leader is recognized.

HEALTH CARE WEEK X, DAY III

Mr. MCCONNELL. Mr. President, Senators are still hashing out the details of the Democrat health care proposal that they plan to bring to the floor, and it isn't getting any better.

Americans wanted us to work together on reforms that improve the system we have. What they are getting instead is a bill that creates an entirely different system in which government plays a bigger and bigger role in people's health care decisions. They are slapping this plan together as quickly as possible, and then they are going to force it on the American people whether they like it or not. That is what is going on this week in the hearing room of the Finance Committee.

Supporters of this bill are watching the clock. They know the longer it sits out there, the more Americans will oppose this trillion-dollar experiment that cuts Medicare, raises taxes, and threatens the health care choices that millions of Americans now enjoy. That is why they struck down a commonsense amendment this week that would have given the American people 72 hours to look at the details of this legislation.

They are rushing it through, hoping no one gets to see the fine print. Why else would they deny this 72-hour amendment that gives people the time they need to read a 1,000-page bill? Why else would they be dismissing anyone who raises a peep of opposition? Why else would they be asking people to forward fishy e-mails to the White House? And why else would the administration order an investigation into a private company for telling its clients the truth about what this legislation would mean for them?

More and more, it seem like supporters of this legislation just don't believe that the American people know what is best for themselves, so they want to keep them in the dark about the details. But that is not the way democracy works. And that is why Republicans sent a letter to the Department of Health and Human Services yesterday calling on the HHS Secretary to rescind the gag order that it placed on companies that want to tell seniors how health care legislation will affect them. Seniors deserve to know what is in this bill, and insurers should be free to tell them.

But until that gag rule is lifted, we will tell seniors ourselves, because it hits them hard. It cuts services that millions of seniors currently enjoy. It could force seniors off the plans they

have with nearly \$140 billion in cuts to one popular Medicare plan; it calls for nearly \$120 billion in Medicare cuts for hospitals that care for seniors; more than \$40 billion in cuts to home health agencies; and nearly \$8 billion in cuts to hospice care.

Everyone agrees Medicare needs reform. This isn't reform. Lawmakers want to use Medicare as a piggy bank to pay for their experiment, and seniors are going to suffer for it. The response we keep getting from the administration is that hundreds of billions of dollars in cuts to Medicare won't affect services. Who can blame seniors for scratching their heads over that one? How do you cut half a trillion dollars from something without anybody noticing the difference? Seniors, rightly, just aren't buying it.

Americans want reform. They want lower costs. They want greater access for people without insurance. And they want Congress to deliver commonsense solutions to all these problems. What they are getting instead is a trillion-dollar experiment that cuts Medicare, raises taxes, and threatens the health care options that millions of Americans now enjoy. And they are being told it all has to be done as fast as possible to meet some artificial deadline that no one can explain.

Americans want us to slow down, and Congress is putting its foot on the accelerator. Americans want to know what this bill would mean for them, and Congress won't let them read it before a vote, won't even allow them 72 hours to look over the details of a 1,000 page piece of legislation that will affect one of the most significant aspects of their lives. Americans have concerns about what they're hearing, and they are being told to shut up, sit down, and take the health care we give you.

This is precisely the kind of condescending attitude from lawmakers in Washington that ordinary Americans are tired of. This is the kind of thing they are protesting and speaking out against across the country. And over the last few months, Congress hasn't given them any reason to believe that their concerns aren't exactly right.

I yield the floor.

Mr. COCHRAN. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. INOUE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MORNING BUSINESS

Mr. INOUE. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. INOUE. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

FAA REAUTHORIZATION ACT

Mr. DORGAN. Mr. President, last evening the Senate passed a 3-month extension—until December 31—of the Federal Aviation Administration reauthorization bill, and I wanted to mention a word about that.

The 3-month extension is necessary because the authorization ends at the end of this month, September 30. This is such an important issue, so I hope we are able to find time on the floor of the Senate—I have talked to the majority leader, Senator REID, about finding time on the floor to consider the FAA reauthorization bill, which includes important provisions to modernize our air traffic control system.

Let me talk about the process for getting a bill considered on the floor just for a moment. It has been difficult here to get things done on the floor of the Senate. Sometimes we have had cooperation, sometimes not. Sometimes on very noncontroversial things we have had to file cloture just on the motion to proceed. It takes 2 days to get cloture, have a vote on cloture, and then the minority has insisted on 30 hours postcloture. So you have to take the better part of a week just to get to a piece of legislation, even the noncontroversial ones. So my hope would be that perhaps we could get more cooperation particularly when it comes to passing the FAA Reauthorization Act.

The FAA Reauthorization Act is critically important because we need to modernize the air traffic control system. I chair the Aviation Subcommittee, and that is why I wish to bring this bill to the floor, along with my colleague, Senator ROCKEFELLER, and move rather rapidly on the issue of modernization of the air traffic control system.

We are still flying using ground-based radar systems that have been around for a long time. Previously, I described on the floor of the Senate that when flying began in this country and we started to haul mail by airplanes, planes could only fly during the day when the pilot could see. Then eventually they began flying at night by building big bonfires 50 or 100 miles out so the pilot could see the direction they were supposed to head. Then, with more sophistication, we developed ground-based radar and we put transponders in an airplane which send signals to a radar on the ground, and that radar then puts a little signal on a